

EXHIBIT 1

INTRODUCTION

Respondent Shawn Boyd was a member of the Seal Beach City Council (“City Council”) from May 1998 through May 2002. By virtue of his position on the City Council, Respondent was also a member of the Seal Beach Redevelopment Agency (the “Redevelopment Agency”).

As a member of the City Council and the Redevelopment Agency, Respondent was prohibited by Government Code section 87100 of the Political Reform Act (the “Act”)¹ from making, participating in making, or using his official position to influence any governmental decision in which he had a financial interest. In addition, Respondent had a duty under Section 87203 of the Act to file an annual statement of economic interests (“SEI”) disclosing the economic interests that he held during the preceding calendar year.

In this matter, over the course of eight months, Respondent made, and participated in making, several governmental decisions relating to the Seal Beach Trailer Park (“Trailer Park”), while receiving income from the owner of the Trailer Park. Respondent also failed to disclose the owner of the Trailer Park as a reportable source of income on his 2000 statement of economic interests.

For the purposes of this Stipulation, Respondent’s violations are stated as follows:

COUNT 1: On or about July 10, 2000, as a member of the Seal Beach City Council, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by taking action in a closed session meeting of the Seal Beach City Council regarding a lawsuit filed against the Seal Beach Redevelopment Agency by Richard Hall, in violation of Government Code Section 87100.

COUNT 2: On or about July 24, 2000, as a member of the Seal Beach Redevelopment Agency, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by taking action in a closed session meeting of the Seal Beach Redevelopment Agency regarding a lawsuit filed against the Seal Beach Redevelopment Agency by Richard Hall, in violation of Government Code section 87100.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at Title 2, California Code of Regulations, sections 18109 through 18997. All regulatory references are to Title 2, Division 6, of the California Code of Regulations.

- COUNT 3: On or about August 14, 2000, as a member of the Seal Beach Redevelopment Agency, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by voting on whether to pay \$7,000 for the legal expenses incurred by the residents of the Seal Beach Trailer Park, in violation of Government Code section 87100.
- COUNT 4: On or about August 14, 2000, as a member of the Seal Beach Redevelopment Agency, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by taking action in a closed session meeting of the Seal Beach Redevelopment Agency regarding a lawsuit filed against the Seal Beach Redevelopment Agency by Richard Hall, in violation of Government Code section 87100.
- COUNT 5: On or about November 13, 2000, as a member of the Seal Beach City Council, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by taking action in a closed session meeting of the Seal Beach City Council regarding a lawsuit filed against the Seal Beach Redevelopment Agency by Richard Hall, in violation of Government Code section 87100.
- COUNT 6: On or about January 8, 2001, as a member of the Seal Beach City Council, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by taking action in a closed session meeting of the Seal Beach City Council regarding a lawsuit filed against the Seal Beach Redevelopment Agency by Richard Hall, in violation of Government Code section 87100.
- COUNT 7: On or about February 2, 2001, as a member of the Seal Beach City Council, Respondent Shawn Boyd failed to disclose Richard Hall as a source of income on his 2000 statement of economic interests, in violation of Government Code section 87203.
- COUNT 8: On or about February 26, 2001, as a member of the Seal Beach Redevelopment Agency, Respondent Shawn Boyd made a governmental decision in which he had a financial interest, by taking action in a closed session meeting of the Seal Beach Redevelopment Agency regarding a lawsuit filed by Richard Hall, in violation of Government Code section 87100.

SUMMARY OF THE LAW

One of the findings on which the Act is based is that public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests, or the financial interests of persons who have supported them. (Section 81001, subd. (b).) Therefore, one of the stated purposes of the Act is that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, and in appropriate circumstances, that the officials disqualify themselves from acting, so that conflicts of interest may be avoided. (Section 81002, subd. (c).)

Conflict of Interest Prohibition

In order to prevent conflicts of interest, Section 87100 prohibits state and local public officials from making, participating in making, or using their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest.² Section 82048 defines a “public official” to include every member, officer, employee, or consultant of a state or local governmental agency. A public official “makes a governmental decision” when the official votes on a matter, appoints a person, commits his or her agency to a course of action, or enters into a contractual agreement on behalf of his or her agency. (Regulation 18702.1, subd. (a).)

Under Section 87103, subdivision (c), a public official has a financial interest in a decision, within the meaning of Section 87100, if it is reasonably foreseeable that the decision will have a material financial effect on a source of income of \$500 or more, provided to the official within 12 months before the decision.

Whether the reasonably foreseeable financial effect of a governmental decision is material depends upon the nature of the interest, whether the effect is direct or indirect, and if direct, the degree to which the economic interest is involved in the decision. Under Regulation 18704.1 subdivision (a), an individual who is a source of income is directly involved in a governmental decision when that individual initiates the decision, or is a named party in, or the subject of, the decision.

For individuals who are directly involved in a governmental decision, the reasonably foreseeable financial effect of the decision on the individual is presumed to be material. (Regulation 18705.3, subd. (a).) This materiality standard is commonly referred to as the “one penny” rule. For individuals who are indirectly involved in a governmental decision, the reasonably foreseeable financial effect of the decision on the individual is material if the decision will affect the individual’s income, investments, assets or liabilities (other than real property) by \$1,000 or more. (Regulation 18705.3, subd. (b)(3).) The financial effect of a governmental decision is considered “reasonably

² A disqualified public official shall not be present during a closed meeting of the agency when a decision is considered, or obtain or review a recording of any non-public information regarding the decision. (*Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3rd 1050; now codified in Regulation 18702.1, subdivision (c).)

foreseeable” if there is a substantial likelihood, and not just a mere possibility, that the effect will occur. (*In re Thorner* (1975) 1 FPPC Ops. 198.)

Duty to Disclose Economic Interests

Section 87203 requires every individual who holds an office listed in Section 87200 to annually file, at a time specified in the Commission’s regulations, a statement of economic interests disclosing his or her reportable investments, interests in real property and income. A member of a city council is one of the offices listed in Section 87200. Under Regulation 18723, subdivision (b)(2), the due date for a city council member to file an annual statement of economic interests is April 1st of each year (or the next business day after April 1st, if April 1st falls on a Saturday, Sunday or official holiday). (Regulation 18116.) The statement must include all the economic interests the city council member held during the preceding calendar year. (Regulation 18722, subd.(b).)

SUMMARY OF THE FACTS

Respondent Shawn Boyd was a member of the Seal Beach City Council from May 1998 through May 2002. Respondent was also a member of the Seal Beach Redevelopment Agency by virtue of his position on the city council. As a member of the Seal Beach City Council and the Seal Beach Redevelopment Agency, Respondent was a public official as defined by the Act, and thus had a duty to avoid making a governmental decision if it was reasonably foreseeable that the decision would have a material financial effect on a source of income to him.

In his private capacity, Respondent is a real estate agent. At the time of the decision, Respondent had an economic interest in Richard Hall as a source of income of \$500 or more. (Section 87103, subd. (c).) Richard Hall, a real estate developer, was the owner of the Seal Beach Trailer Park. From May 2000 through December 2000, Richard Hall paid Respondent a \$3,000 monthly retainer fee and reimbursement for expenses in return for Respondent finding property for Mr. Hall to purchase. Respondent also received a percentage of successful real estate deals that he negotiated.

COUNTS 1-2, 4-6, and 8

Making Litigation Decisions in Which Respondent Had a Financial Interest

Making a Governmental Decision

In 1998, Mr. Hall purchased the 126-unit Seal Beach Trailer Park, a designated low to moderate income housing community, for \$2.9 million. At the time of the purchase, the rents at the Trailer Park were controlled by a series of covenants. Soon after purchasing the Trailer Park, Mr. Hall sought to raise space rents by 36 percent to cover his costs of operation. The residents of the Trailer Park opposed the rent increase. One year later, in January 2000, the Seal Beach Redevelopment Agency permitted Mr. Hall to raise rents by only seven percent. Mr. Hall then threatened to close the Trailer Park and force the tenants to move. In March 2000, Respondent, acting on behalf of Mr.

Hall, met with the residents of the Seal Beach Trailer Park to discuss selling the Trailer Park to the residents for \$8 million. Three months later, in June 2000, the residents offered to purchase the Trailer Park from Mr. Hall for \$6.4 million. Mr. Hall rejected the offer, and, on July 3, 2000, filed a lawsuit against the Seal Beach Redevelopment Agency to overturn the rent control covenants.³ Six months later, in December 2000, Mr. Hall agreed to sell the Trailer Park to a non-profit corporation for \$7.4 million (\$5.5 million more than he had paid for it just two years earlier). The sale was financed through city-financed 35 year bonds, and a \$1 million loan from the California Department of Housing and Community Development.

During the course of the litigation, the Seal Beach City Council and the Seal Beach Redevelopment Agency met in six separate closed meetings to make decisions regarding litigation strategy. At the closed meetings, the City Council and the Redevelopment Agency considered whether to fight Mr. Hall in court, or to resolve the dispute by financing the purchase of the park. Respondent attended and participated in each of the six closed meetings.

Direct Involvement

As the plaintiff in the lawsuit, Richard Hall was directly involved in the closed meetings at which the City Council and Redevelopment Agency deliberated on the lawsuit. (Regulation 18704.1.)

It Was Reasonably Foreseeable That the Applicable Materiality Standard Would Be Met

Richard Hall filed the lawsuit against the Redevelopment Agency in order to acquire the ability to raise the amount of rent he could charge at the Seal Beach Trailer Park. It was therefore reasonably foreseeable that the closed session decisions would have at least a “one penny” effect on Mr. Hall. (Regulation 18705.3, subd. (a).)

Accordingly, by attending and making decisions at six confidential closed meetings, Respondent committed six violations of Section 87100.

COUNT 3

Approving an Expenditure in Which Respondent Had a Financial Interest

Making a Governmental Decision

On August 14, 2000, the Seal Beach Redevelopment Agency considered whether to authorize the expenditure of \$7,000 to assist the Seal Beach Trailer Park residents to purchase the Trailer Park from Richard Hall. The purpose of the \$7,000 expenditure was for the payment of the legal fees necessary for the residents to apply for a \$1 million loan from the California Department of Housing and Community Development. At the

³ Seal Beach Associates, LLC v. Redevelopment Agency of the City of Seal Beach (Sup. Ct. Orange County, 2000, No. 00CC007866).

meeting, Respondent made a governmental decision by voting on whether to approve the expenditure. (Regulation 18702.1.)

Indirect Involvement

The City Council gave \$7,000 to the residents of the Seal Beach Trailer Park. Mr. Hall was not a named party in this decision, and was, therefore, indirectly involved in the decision to approve the expenditure. (Regulation 18704.1.)

It Was Reasonably Foreseeable That the Applicable Materiality Standard Would Be Met

The purpose of the expenditure was to enable the residents of the Seal Beach Trailer Park to purchase the park from Richard Hall, a transaction in which Mr. Hall stood to make a profit of at least \$1,000 or more. (Regulation 18705.3, subd. (b)(3).) It was therefore reasonably foreseeable that the applicable materiality standard would be met as a result of the decision.

Accordingly, by voting on whether to authorize the expenditure of \$7,000 to the residents of the Seal Beach Trailer Park, Respondent made a governmental decision in which he had a financial interest, in violation of Section 87100.

COUNT 7

Failing to Disclose a Source of Income on a 2000 Annual SEI

As a member of the Seal Beach City Council, Respondent had a duty to report all of his economic interests from the previous year, including sources of income, on an annual statement of economic interests.

From May 2000 through December 2000, Respondent received income of \$500 or more from Richard Hall. Mr. Hall was therefore a reportable economic interest to Respondent. On or about February 2, 2001, Respondent timely filed his 2000 annual SEI. On the form, Respondent did not disclose Mr. Hall, or any of Mr. Hall's wholly-owned businesses, as a source of income. By failing to disclose Mr. Hall on his 2000 SEI, Respondent violated Section 87203.

CONCLUSION

This stipulation is part of a global settlement reached in cooperation with the Orange County District Attorney's Office, which has criminally prosecuted Respondent for violating Government Code section 1090.

This matter consists of eight counts, five of which carry a maximum administrative penalty of \$2,000 per violation, and three of which carry a maximum administrative penalty of \$5,000 per violation, for a total of \$25,000.

Counts 1-6 and 8 involve the Act's prohibition against conflicts of interest. The conduct of making a governmental decision in which an official has a disqualifying financial interest is a serious violation of the Act. Moreover, the conduct of participating in closed meetings involving a source of income is particularly egregious, as Respondent became privy to sensitive information regarding the litigation and settlement strategy of the Seal Beach City Council and the Seal Beach Redevelopment Agency. Accordingly, the maximum administrative penalty of \$20,000 is justified for these counts.

Regarding Count 7, the failure to disclose a source of income is a serious violation of the Act, especially when that source of income is the basis for a series of conflict of interest violations. As such, the maximum administrative penalty of \$5,000 for this count is appropriate.

Accordingly, the facts of this case justify the imposition of the maximum administrative penalty of \$25,000.